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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/010,188	12/06/2001	David P. Kippie	05542.017002	7321

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EXAMINER

TUCKER, PHILIP C

ART UNIT

PAPER NUMBER

1712

DATE MAILED: 07/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/010,188

Applicant(s)

KIPPIE ET AL.

Examiner

Philip C Tucker

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2, 4. 6) ☐ Other: ____.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-40 are rejected under 35 U.S.C. 102(e) as being anticipated by Miller et al (6423802).

Miller teaches compositions used as well service fluids which comprise cesium formate and potassium formate within the level of the present invention (see example 2, and column 4, lines 31-33). The composition further comprises a polymer viscosifier, and possibly salts such as potassium bromide (column 5, lines 26-50).

3. Claims 1, 3, 8-10, 21, 23, 28-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Brown et al (6436879 B1).

Brown teaches a drilling fluid which comprises cesium formate at levels such that a specific gravity of 2.5 g/cm³ is obtained (see claims 1 and 2).

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4. Claims 1, 2, 5, 8-11, 12, 15, 18-21, 22, 25, 28-31, 32, 35, 38-40 are rejected under 35 U.S.C. 102(b) as being anticipated by Dobson et al. (5804535).

Dobson teaches a well drilling and servicing fluid which comprises a viscosifier and cesium formate or potassium formate at levels of up to 2160 Kg/M³ (see examples).

5. Claims 1, 2, 5, 8-10, 21, 22, 25, 28-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Van Ooyen (6017856).

Van Ooyen teaches a well servicing fluid which comprises potassium formate, and optionally cesium formate, at levels within the scope of the present invention (see column 2, lines 15-17).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-8, 11-18, 21-28 and 31-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clarke-Sturman (4900457).

Clarke-Sturman teaches a well drilling fluid which comprises at least one formate salt and a viscosifier, wherein the salt content may be as high as 120% w/v. Other salts such as cesium formate and potassium bromide may be used in the drilling fluid (column 2, lines 1-16). Clarke-Sturman differs from the present invention in that a fluid


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comprising greater than 120% w/v salt is not disclosed. However, it would be obvious to one of ordinary skill in the art to utilize salt concentrations at insignificantly higher levels, such as 120.1%, since such fluids would be expected to have similar properties to those disclosed by Clarke-Sturman, and expected to be useful as drilling fluids (see for example In re Aller 105 USPQ 233).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip C Tucker whose telephone number is 703-308-0529. The examiner can normally be reached on Monday - Friday, Flexible schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Dawson can be reached on 703-308-2340. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0651.


Philip C Tucker
Primary Examiner
Art Unit 1712

PCT-2847
July 15, 2003